

BEFORE THE
DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS
OF THE STATE OF HAWAII

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| In the Matter of TCI of Hawaii, Inc. |) |
| (Maui System) |) |
| (Hawaii Kai System) |) |
| (Lanai/Molokai System) |) |
| (Ka'u System) |) |
| |) |
| |) |
| Update of Basic Service Tier Rate |) |
| (FCC Form 1210 Filings) |) |
| (FCC Form 1240 Filing) |) |
| |) |
| |) |
| Update of Equipment and Installation Rates |) |
| (FCC Form 1205 Filings) |) |

DECISION AND ORDER NO. 232
(Rate Order)

WHEREAS, the Cable Television Division, Department of Commerce and Consumer Affairs of the State of Hawaii (the "State") became certified to regulate basic cable service rates and associated charges as of May 12, 1994, and has followed regulations prescribed by the Federal Communications Commission (the "FCC"), 47 C.F.R. Part 76, Subpart N ("FCC Rules"), and by the State's Department of Commerce and Consumer Affairs, sections 16-133-40 to 53 of the Hawaii Administrative Rules (the "Department Rules"), for the regulation of the basic service tier and associated equipment, installations, services and charges; and

WHEREAS, by letter dated May 12, 1994, the State notified The Chronicle Publishing Company dba Chronicle Cablevision of Hawaii (sometimes hereinafter referred to as "Chronicle") that Chronicle's rates for the basic service tier and associated charges for equipment and installation for its cable systems were subject to regulation by the State¹; and

¹By Decision and Order No. 187 issued on March 22, 1996, the State approved the transfer of the cable communications franchise held by The Chronicle Publishing Company dba Chronicle Cablevision of Hawaii to TCI of Hawaii, Inc. (hereinafter referred to as the "Company").

WHEREAS, in connection with justifying rate adjustments for the basic service tier, Chronicle submitted its FCC Form 1210 for its Maui, Lanai/Molokai, Hawaii Kai, and Ka'u systems on December 5, 1994, for the period October 1, 1994 through December 31, 1994, and its FCC Form 1210 for its Maui, Lanai/Molokai, Hawaii Kai, and Ka'u systems on April 4, 1996, for the period January 1, 1995 through March 31, 1996; and the Company submitted its FCC Form 1240 for the Maui, Lanai/Molokai, Hawaii Kai, and Ka'u systems on January 24, 1997 (hereinafter collectively referred to as "Rate Filing"), for the period April 1, 1997 through March 31, 1998;² and

WHEREAS, in connection with justifying rate adjustments for equipment and installation charges, Chronicle submitted its FCC Form 1205 for the Maui, Lanai/Molokai, Hawaii Kai, and Ka'u systems on March 31, 1995, for year ending December 31, 1994, and the Company submitted its FCC Form 1205 on March 12, 1997, for the period April 1, 1997 through March 31, 1998 (collectively sometimes hereinafter referred to as "Equipment Rate Filing"); and

WHEREAS, the Company has the burden of proving that its proposed adjustment is in conformance with the FCC Rules;³ and

WHEREAS, the State retained a financial consultant to assist it in the rate review process; and

WHEREAS, the State reviewed the Rate Filing and Equipment Rate Filing, and prepared a proposed rate order for each of the above-noted filings (except the Company's FCC Form 1205 filed on March 12, 1997), copies of which were provided to Chronicle and the Company, respectively, prior to the issuance of this Rate Order; and

WHEREAS, this Rate Order covers Chronicle's refund liability under Decision and Order Nos. 179, 180, 181 and 182 (Chronicle's FCC Form 1200 filings), the Rate Filing and Equipment Rate Filing for Chronicle's and the Company's basic service tier rates and

²The Rate Filing submitted for the Company's Maui system covers Community Unit Identification numbers CUID HI0033, HI0034, HI0035, HI0037, HI0039, HI0087, HI0089, and HI0100; the Company's Lanai/Molokai system covers Community Unit Identification numbers CUID HI0073, HI0074, and HI0107; the Company's Hawaii Kai system covers Community Unit Identification number CUID HI0003; and the Company's Ka'u system covers Community Unit Identification number CUID HI0020.

³See 47 C.F.R. Section 76.937(a), and Section 16-133-46 of the Department's Rules.

associated equipment and installation charges after April 4, 1995 (effective date of maximum permitted rate for Chronicle's basic service tier rates under its first FCC Form 1210 filed on December 5, 1994) and continuing up to March 31, 1998, for the Maui, Lanai/Molokai, Ka'u, and Hawaii Kai systems;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Company shall refund to subscribers the following amounts in the form of monetary credits and in-kind coupons. The refunds cover the period from July 14, 1994 through March 31, 1999 (except for Ka'u system's basic service tier rate which covers the period through March 31, 1998), but do not include refunds for amounts that may be owed in the event the Company has misrepresented its costs to the State. The refunds ordered in this Rate Order includes any and all amounts of franchise fees that would otherwise be owed as refunds to the Company.

(a) Monetary Credits. The Company shall issue refunds in the amount of \$265,000.00 in monetary credits to subscribers of the Maui and Ka'u systems, commencing with the first billing cycle in April, 1998 -- \$249,000.00 shall be credited to the Maui system subscribers and \$16,000.00 shall be credited to the Ka'u system subscribers.

(b) In-Kind Coupons. With the first billing cycle in April, 1998, the Company shall issue to each subscriber in the Maui, Lanai/Molokai, and Hawaii Kai systems three (3) pay-per-view coupons, each valid for a two month period staggered sequentially over a six month period. The pay-per-view coupons shall provide for the purchase of a pay-per-view movie (excluding special events) at a retail price that is one-half the normal retail price, and the coupons shall be fully transferable. There shall be no additional charge to subscribers associated with the use of the coupons (except for the lease of converters by subscribers not currently leasing converters but desire to personally use the coupons, as described below) including, but not limited to, upgrade/downgrade and disconnect charges, or other charges that may accrue after the use of the coupons unless expressly accepted by the subscriber. For those subscribers not currently leasing a converter and desire to personally use the coupons, the Company may charge no more than \$1.50 per month for the lease of a converter for the duration of the six month period in which the coupons are valid, and such subscribers may use the converters at one month intervals. The Company shall provide proper and sufficient notice to the subscribers describing the terms, conditions and limitations of the coupons.

(c) Disney Service. No later than May 1, 1998, the Company shall provide to each subscriber of the Ka'u system a free month of the premium service, The Disney Channel. For subscribers who currently subscribe to The Disney Channel, they will each receive one month's credit for that premium service on their cable service bill in the same month The Disney Channel is provided for free to the remaining customers. There shall be no additional charge to subscribers associated with the free premium service including, but not limited to, upgrade/downgrade and disconnect charges, or other charges that may accrue after the one month free viewing unless expressly accepted by the subscriber. The Company shall provide proper and sufficient notice to the subscribers describing the terms, conditions and limitations of the free one month viewing.

2. If the refund credits, in-kind coupons and The Disney Channel are provided by the Company as set forth in paragraph 1 hereof, the rate reduction is implemented as provided in paragraph 4 hereof, and the Petition for Consideration is withdrawn with prejudice as provided in paragraph 6 hereof, the basic service tier rates currently charged in the Maui, Lanai/Molokai, Hawaii Kai and Ka'u systems shall not be subject to any additional refund liability under this Rate Order.

3. Basic Service Tier Rates. For the period April 1, 1998 through March 31, 1999, the actual and maximum permitted monthly rates for the basic service tiers (exclusive of franchise fees, FCC fees, and applicable sales or excise taxes) shall be as follows: In the Maui system, \$9.90; in the Lanai/Molokai system \$10.43; and in the Hawaii Kai system \$9.69.⁴ Said rates are inclusive of any and all unrecovered costs through March 31, 1998, that would have been eligible for true-up in subsequent periods.

4. On April 1, 1998, the Company shall reduce its current rate for the basic service tiers in the Maui, Lanai/Molokai, and Hawaii Kai systems so that such rate does not exceed the maximum permitted rate set forth in paragraph 3 hereof.

5. Equipment and Installation Charges. For the period April 1, 1997 through March 31, 1998, the Company's maximum permitted rates for equipment and installation (exclusive of franchise fees, FCC fees, and applicable sales or excise taxes) shall be as follows:

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| Service Installation-Unwired Home, 1st outlet only | \$37.50 |
| Service Installation-Wired Home, 1st outlet only | 18.75 |

⁴ For the Ka'u system, the Company represented that it intends to file its FCC Form 1240 for proposed adjustments to its basic service tier rate covering the period April 1, 1998 through March 31, 1999. Such filing shall be consistent with this Rate Order, and for purposes thereof the rate for Line A1 of the Form 1240 is \$18.78.

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| Service Reconnection | 18.75 |
| Additional Outlet Connection (at time of initial install) | 12.50 |
| Additional Outlet Connection (separate trip) | 18.75 |
| Relocate/Move Outlet | 18.75 |
| Upgrade/Downgrade of Optional Services (separate trip required) | 12.95 |
| Upgrade/Downgrade of Optional Services (no separate trip required) | 2.00 |
| Converter - Basic Only Equipment ⁵ | 1.50 |
| Converter - Non-Basic Only Equipment | 3.00 |
| Remote | .20 |

For the period April 1, 1998 through March 31, 1999, the Company's maximum permitted rates for equipment and installation (exclusive of franchise fees, FCC fees, and applicable sales or excise taxes) shall be as follows:

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| Service Installation-Unwired Home, 1st outlet only | \$44.95 |
| Service Installation-Wired Home, 1st outlet only | 24.95 |
| Service Reconnection | 24.95 |
| Additional Outlet Connection (at time of initial install) | 12.50 |
| Additional Outlet Connection (separate trip) | 18.75 |
| Relocate/Move Outlet | 18.75 |
| Upgrade/Downgrade of Optional Services (separate trip required) | 12.95 |
| Upgrade/Downgrade of Optional Services (no separate trip required) | 2.00 |
| Converter - Basic Only Equipment | 1.55 |
| Converter - Non-Basic Only Equipment | 3.10 |
| Remote | .30 |

6. Within 10 days from the date of this Rate Order, the Company shall withdraw or cause to withdraw with prejudice that certain Petition For Reconsideration - In the Matter of Chronicle Cablevision dba Chronicle Cablevision of Hawaii, Appeal of Local

⁵ Available to customers who subscribe to limited service and use the equipment to tune limited service only.

Rate Order, filed with the FCC on or about May 2, 1997. The Company shall submit a file stamped copy of such withdrawal within said 10 day period.

7. The Company shall file with the State within 120 days from the date of this Rate Order a certification, signed by an authorized representative of the Company, stating whether the Company has complied fully with all provisions of this Rate Order, describing in detail the precise measures taken to implement this Rate Order, and showing how the refunds and in-kind coupons were distributed.

8. The Company may charge rates less than the maximum permitted rate indicated herein, as long as such rates are applied in a uniform and nondiscriminatory way, pursuant to applicable federal, state, and local laws and regulations.

9. The Company shall not increase its basic service tier rate, institute charges for any other types of service, equipment or installation associated with the basic service tier, without first complying with all applicable laws, rules and regulations.

10. This Rate Order is not a finding that the State has accepted as correct any specific entry, explanation or argument, or methodology used or made by the Company not specifically addressed herein.

11. This Rate Order concludes the State's review of the basic service tier and associated equipment and installation rates effective after April 4, 1995, as described in the Rate Filing and Equipment Rate Filing, through the period ending:

March 31, 1998 - Basic service tier rate in Ka'u system; and

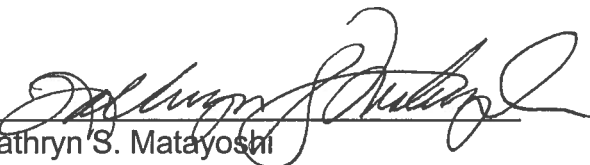
March 31, 1999- Basic service tier rate in Maui, Lanai/Molokai, and Hawaii Kai systems, and equipment and installation charges for all four systems.

12. In the event the Company fails to comply with any provision set forth in this Rate Order, the State reserves the right to modify this Rate Order including, but not limited to, adjusting the refund amount in paragraph 1 hereof.

13. Public notice of this Rate Order shall be provided in accordance with section 16-133-45(b) of the Department's Rules. A copy of this Rate Order shall be mailed to the Company.

14. This Rate Order is issued as of the date hereof and shall be effective on February 12, 1998.

DATED: Honolulu, Hawaii January 23, 1998.



Kathryn S. Matayoshi
Director
Commerce and Consumer Affairs
State of Hawaii

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DECISION AND ORDER NO. 232 was served upon the following parties at the address shown below by mailing the same, postage prepaid, on this 23rd day of January, 1998.

MS. STACIE O. KELLEY
TCI Cablevision of California, Inc.
1850 Mt. Diablo Blvd., Suite 200
Walnut Creek, CA 95496

MS. GERRIANNE G. SAKAMOTO
TCI of Hawaii, Inc.
350 Hooohana Street
Kahului, HI 96732

Patti K. Kodama

Patti K. Kodama
Secretary